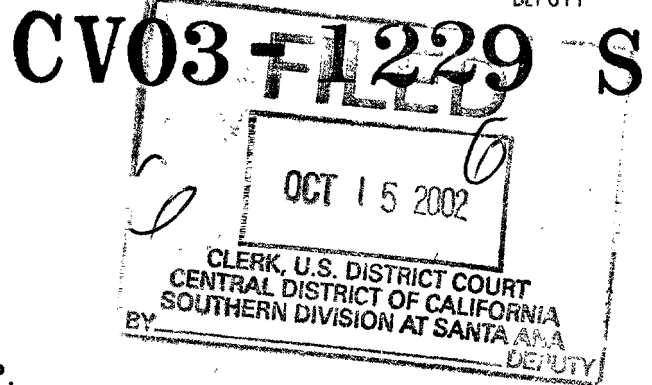


U.S. DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
FILED

JUN 25 2003

ROBERT H. *SM* CLERK
BY _____ DEPUTY



JUDGE HICKS

MAGISTRATE JUDGE PAYNE

1 Daniel V. Thompson (TX State Bar #19909200)
2 THOMPSON & GUSTAVSON, L.L.P.
3 High Point Centre
4 12225 Greenville Avenue, Suite 995
5 Dallas, TX 75243
6 (972) 479-0900, (972) 479-0215 (facsimile)

7 James C. McMichael, Jr. (LA Bar #10443)
8 MCMICHAEL, MEDLIN & D'ANNA, L.L.C.
9 504 Texas St.
10 P.O. Box 72
11 Shreveport, LA 71161-0072
12 (318) 221-1004, (318) 221-0008 (facsimile)

13 Robert D. Buyan (CA Bar #138270)
14 STOUT, UXA, BUYAN & MULLINS, L.L.P.
15 4 Venture, Suite 300
16 Irvine, CA 92618-3320
17 (949) 450-1750, (949) 450-1764 (facsimile)

18 Attorneys for Defendant
19 PROGRESSIVE STAMPING AND PLATING, INC.

20
21 IN THE UNITED STATES DISTRICT COURT
22 FOR THE CENTRAL DISTRICT OF CALIFORNIA

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RAYMOND SELLEK, JR.

Plaintiff,

v.

PROGRESSIVE STAMPING
AND PLATING, INC.,
HARDWARE RESOURCES,
L.L.C., and JOHN DOES 1-10,

Defendants.

Civil Action No.
SA02-842AHS(ANx)

ANSWER OF PROGRESSIVE
STAMPING AND PLATING, INC.

ENTER ON ICMS

OCT 17 2002

Comes now defendant Progressive Stamping and Plating, Inc. (hereinafter
"PSPI"), responding to the Complaint of Raymond Sellek, Jr. (hereinafter "Sellek"),
as follows:

1 1. The allegations of Paragraphs 1, 3, 4, 12, and 16 are admitted.

2 2. The allegations of Paragraphs 8, 13, 15, 20-25, 27 and 28 are denied.

3 3. PSPI is without information sufficient to form a belief as to the
4 allegations of Paragraph 5.

5 4. In response to Paragraph 2, PSPI is a Louisiana corporation with its
6 principal place of business at the address indicated in Bossier City, LA. PSPI also has
7 a facility at 820 Rockefeller, Suite G, Ontario, CA. Hardware Resources, L.L.C. is
8 no longer in existence, having been merged into PSPI in the year 2000. PSPI does not
9 have any information concerning any "John Does". PSPI denies the remaining
10 allegations.

11 5. In response to Paragraph 6, PSPI admits that Sellek has obtained several
12 copyright registrations, is without information sufficient to form a belief as to the
13 allegation that Sellek is applying for registrations, and denies the remaining
14 allegations.

15 6. In response to Paragraph 7, PSPI admits that Sellek has obtained several
16 copyright registrations, denies that true and correct copies are attached to the copy of
17 the Complaint served on PSPI (only pages 1 of 2 were attached), is without
18 information sufficient to form a belief as to the allegation that copies of the specimens
19 are attached to the Complaint, and denies the remaining allegations.

20 7. In response to Paragraph 9, PSPI admits that it has marketed, sold and
21 advertised wood carvings substantially similar to not only Sellek's wood carvings but
22 also numerous other wood carvings that preexisted Sellek's wood carvings, and denies
23 the remaining allegations.

24 8. In response to Paragraph 10, PSPI admits that Exhibit 2 to the Complaint
25 is a copy of a fax received by PSPI and that there were other communications, and
26 denies the remaining allegations.

27 9. In response to Paragraph 11, PSPI denies that Sellek has at any time had
28 any valid copyrights, denies that PSPI has ever had knowledge of any valid copyrights,

1 and admits the remaining allegations.

2 10. In response to Paragraph 14, PSPI admits that it purchased Sellek's
3 corbels in California, and denies the remaining allegations.

4 11. In response to Paragraph 17, PSPI admits it shipped the corbels out of
5 California, and denies the remaining allegations.

6 12. In response to Paragraph 18, PSPI admits this is a copyright infringement
7 cause of action, and denies the remaining allegations.

8 13. In response to Paragraph 19, PSPI repeats and realleges its responses to
9 Paragraphs 1-18.

10 14. In response to Paragraph 26, PSPI repeats and realleges its responses to
11 Paragraphs 1-25.

12 **Affirmative Defenses**

13 15. First affirmative defense: The Copyright Infringement and "Fraud"
14 Claims for relief are barred by *res judicata* and/or collateral estoppel, in that a prior
15 judgment from the United States District Court for the Western District of Louisiana
16 has declared that Sellek's wooden corbels are not copyrightable (Exhibit 1 hereto).

17 16. Second affirmative defense: The "Fraud" Claim for Relief fails to state a
18 claim upon which relief may be granted, in that it omits the following elements of fraud:
19 misrepresentation or concealment, intent to defraud, justified reliance, and damage
20 caused by reliance.

21 17. Third affirmative defense: The Court does not have subject matter
22 jurisdiction or venue under the "first-filed" rule, because of the prior-filed Louisiana
23 action.


24 **Prayer**

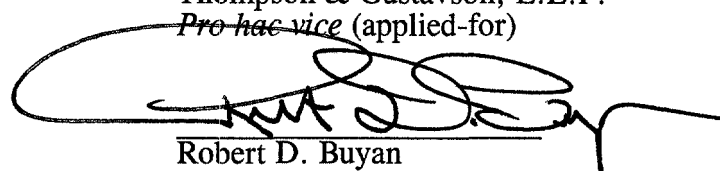
25 WHEREFORE, PREMISES CONSIDERED, PSPI respectfully requests that
26 Sellek take nothing, that PSPI be awarded its costs and attorneys fees, and that it be
27 granted such
28

1 other and further relief to which it may be entitled.

2
3 Dated: October 15, 2002

4 Respectfully submitted,

5
6 
7 Daniel V. Thompson
8 Thompson & Gustavson, L.L.P.
9 *Pro hac vice* (applied-for)

10 
11 Robert D. Buyan
12 Stout, Uxa, Buyan & Mullins, L.L.P.
13 Local counsel
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OCT 07 2002

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF LOUISIANA
SHREVEPORT DIVISION

ROBERT H. SHERWELL, CLERK
WESTERN DISTRICT OF LOUISIANA
SHREVEPORT, LOUISIANA

PROGRESSIVE STAMPING AND
PLATING, INC. d/b/a HARDWARE
RESOURCES,

Plaintiff,

vs.

RAYMOND SELLEK,

Defendant.

U.S. DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
FILED

OCT 10 2002

ROBERT H. SHERWELL, CLERK
BY [Signature] DEPUTY

Civil Action No. CV02-1664-S

Judge Stagg

JURY DEMANDED

ORDER

The Court having examined the foregoing Motion and being of the opinion that it should be granted;

IT IS HEREBY ORDERED AND ADJUDGED that a default judgment be entered against defendant, Raymond Sellek, declaring that its wooden corbels are not items protected by the United States Copyright Act.

SIGNED this the 10 day of Oct, 2002.

[Signature]
JUDGE

COPY SENT:

DATE: 10/11/02

BY: DM

TO: McMichael

Sellek

Copyrights Register

(7)

1
2 **PROOF OF SERVICE**

3
4 I am a citizen of the United States of America, and not a party to the within action. I am
5 employed at Stout, Uxa, Buyan & Mullins, LLP having a business address of 4 Venture, Suite
6 300, Irvine, CA 92618.

7 On the date executed below I caused to be served by U.S. first class mail the following
8 document:

9 **ANSWER OF PROGRESSIVE STAMPING AND PLATING, INC.**

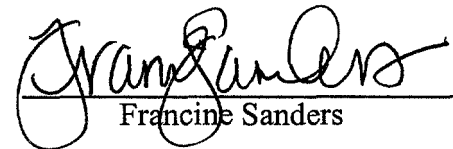
10 on the parties or their counsel shown below by placing a true copy thereof in a sealed envelope
11 addressed by as follows :

12
13 Brian R. Reiss
14 3700 Campus Drive, Suite 204
Newport Beach, CA 92660

15 and then by sealing the envelope(s) and depositing same, with postage fully prepaid, in the mail
16 at Irvine, California.

17 I declare under penalty of perjury that the above is true and correct.

18 Executed on October 15, 2002 at Irvine, California, County of Orange.
19

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21 Francine Sanders
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